



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.state.nv.us>

Wednesday, August 18, 2004
9:30 a.m.

Nevada Legislature
401 South Carson Street, Room 3137
Carson City, Nevada 89701

Video conferenced to:

Legislative Counsel Bureau
Grant Sawyer Building
555 E. Washington Avenue, Room 4412
Las Vegas, Nevada 89101

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission office.

Commission Members Present:

Rick Hsu, Esq., Chairman (Carson City); Caren Jenkins, Esq., Vice Chairman (Carson City);
Merle Berman (Las Vegas); Timothy Cashman (Las Vegas); William Flangas, P.E. (Las Vegas);
George Keele, Esq. (Carson City). Commissioner Jenkins was present for the first three agenda
items only.

Commission Member absent due to his participation in the Panel Proceeding:
Mark Hutchison, Esq.

Commission Member Absent:
Jim Kosinski, Esq.

Commission on Ethics Staff Present:
Stacy M. Jennings, Executive Director; Nancy Lee Varnum, Commission Counsel;
Emily H. Nunez, Administrative Assistant

Parties Present:
John Hawk, former member of the Nevada State Board of Education;
Bruce Judd, Esq., counsel for John Hawk;
Witnesses: Tom McCormack, Charter Schools Consultant, Nevada Department of Education;
Keith Rheault, State Superintendent of Education; Wendi Hawk, Nevada State High School;
Richard Segerblom, Esq.

Others Present:
Members of the media and general public

Chairman Hsu called the meeting to order at 9:34 a.m., Wednesday, August 18, 2004.

Agenda Item 1 – Open Session to approve the Minutes of the July 14, 2004 Commission Meeting

In open session, Commissioner Keele made a motion to approve the minutes of the July 14, 2004 Commission meeting. Commissioner Cashman seconded the motion. The motion passed unanimously.

Agenda Item 2 – Open Session for review and adoption of a Public Information Policy

Chairman Hsu advised the Commission that as a result of discussions from our last meeting, he took it upon himself to draft a media policy. After hearing discussions and suggestions made by the Commission, Vice Chairman Jenkins moved that the Commission adopt the policy presented in draft by the Chair with the amendments as suggested by Commissioner Keele. Commissioner Keele seconded the motion. The motion was passed five to one, with Commissioner Flangas opposing.

Agenda Item 3 – Open Session to hear Executive Director's Annual Report presented pursuant to NAC 281.053, subsection 2

Executive Director Stacy Jennings provided a summary to the Commission about the report distributed to each Commissioner. Ms. Jennings reported that the Board of Examiners unanimously approved the Commission's request for a paralegal position and a Las Vegas office, and the request will be forwarded to the Legislature's Interim Finance Committee on September 15, 2004 for their consideration. She also advised the Commission that the agency budget has

been completed, and that the Legislative Counsel Bureau Audit Division will be doing an audit of the Commission.

Recess was taken at 10:22 a.m., and the meeting reconvened at 10:29 a.m.

Agenda Item 4 – Request for Opinion 04-34

In open session, Chairman Hsu denied the motion to dismiss filed by subject's attorney, Bruce Judd, because the Commission has no power to rule on issues of constitutionality.

Mr. Judd then proceeded with an opening statement.

At the conclusion of Mr. Judd's statement, the Commission called witnesses to testify. Mr. Judd was provided the opportunity to cross-examine each witness.

The first witness was Tom McCormack, Charter School Consultant, Nevada Department of Education. Mr. McCormack's testimony was followed by a lunch recess taken at 12:21 p.m.

The meeting reconvened at 1:05 p.m.

State Superintendent of Public Instruction Keith Rheault was called to testify, followed by Wendi Hawk, Co-Director of Nevada State High School charter school, also represented by Bruce Judd.

A recess was taken at 2:55 p.m., and the meeting reconvened at 3:13 p.m.

John Hawk, subject of complaint, was called as the final witness for the Nevada Commission on Ethics.

Mr. Bruce Judd called one witness, Richard Segerblom, former counsel for John Hawk.

The hearing recessed at 4:55 p.m. and reconvened at 5:04 p.m. to hear Mr. Judd's closing statement. This was followed by the Commission's deliberations regarding Request for Opinion 04-34.

With regard to the allegations concerning NRS 281.481(2), whether Mr. Hawk used his position for an unwarranted privilege, Commissioner Keele moved to dismiss this allegation. Commissioner Cashman seconded the motion. The motion was approved unanimously.

With regard to allegations concerning whether Mr. Hawk was seeking an economic opportunity which would tend improperly to influence a reasonable person in his position, Commissioner Flangas moved that the Commission find that Mr. Hawk violated NRS 281.481(1). Chairman Hsu seconded the motion. The motion passed four to one (Commissioner Keele opposing).

With regard to allegations concerning Mr. Hawk's disclosure pursuant to NRS 281.501(4) and abstention pursuant to NRS 281.501(2), Commissioner Cashman moved that the Commission find that Mr. Hawk did not violate NRS 281.501(2), but did violate NRS 281.501(4). Chairman Hsu seconded the motion. The motion passed four to one (Commissioner Keele opposing).

Commissioner Keele moved that the Commission find that Mr. Hawk did not willfully violate NRS 281.501(4). The motion died due to lack of a second.

Chairman Hsu moved that the Commission find that Mr. Hawk's violation of NRS 281.501(4) was willful. The motion was seconded by Commissioner Flangas. The motion passed four to one in support of a willful violation (Commissioner Keele opposing).

Commissioner Flangas moved that the Commission find that Mr. Hawk's violation of NRS 281.481(1) was willful. The motion was seconded by Chairman Hsu. The motion passed three to two, with Commissioners Cashman and Keele voting no.

Having found Mr. Hawk willfully violated NRS 281.481(1) and NRS 281.501(4), Chairman Hsu accepted a motion regarding the imposition of a civil penalty. Commissioner Flangas moved that the Commission consider a fine of \$1,000 for the willful violation of NRS 281.481(1). After discussion, Commissioner Flangas amended his motion to include that the Commission consider a total fine of \$1,000 for the willful violations of NRS 281.481(1) and NRS 281.501(4). Commissioner Berman seconded the motion. The motion was approved four to one (Commissioner Keele opposing).

Agenda Item 5 – Open Session for Public Comment

No public comment was made.

Chairman Hsu adjourned the meeting at 6:06 p.m.

Minutes transcribed by:

Minutes approved September 22, 2004.

Emily H. Nunez
Administrative Assistant

Rick Hsu, Esq.
Chairman